BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	)	
	)	
Market Entry and Regulation	)	RM-8355
of International Common Carriers	)	
With Foreign Carrier Affiliations	)	
	)	

COMMENTS

Sprint Communications Company L.P. ("Sprint"), pursuant to the Commission's Public Notice issued October 1, 1993 (Report No. 1975), hereby submits its comments in support of the Petition for Rulemaking in the above-captioned matter filed by American Telephone and Telegraph Company ("AT&T") on September 22, 1993.

AT&T requests that the Commission establish a rulemaking proceeding to review issues and policies related to foreign carrier participation in the provision of U.S. telecommunications services. AT&T recommends that the Commission "...condition any authorization for entry into the U.S. service market by foreign carriers having the ability to discriminate against U.S. carriers in their home markets," upon the agreement of the "foreign carrier (and any U.S. affiliate) to nonstructural safeguards to minimize the opportunity for the foreign carrier to leverage its monopoly power" (AT&T Petition at 5). AT&T also recommends that the Commission, before acting on any application by a foreign carrier or affiliate, make a finding regarding whether comparable opportunities for U.S. carriers to compete in the

home markets of the prospective entrants presently are available or will become available within a reasonable period, not to exceed two years (at 7).

For reasons explained below, Sprint strongly supports AT&T's request for the prompt initiation of a rulemaking proceeding. There is an immediate need for the Commission to examine the general issue of reciprocal rights for provision of domestic and international telecommunications services, and to develop consistent policies which will encourage openness in foreign markets and which will prevent discrimination against U.S. carriers.

International trade has grown rapidly in recent years as vital industries have become increasingly global in scope. This globalization and the availability of improved technology (which has made possible higher-quality, lower-priced service) has resulted in a dramatic increase in international traffic. As part of this growth, multinational corporations and other U.S. customers with locations abroad are demanding unified international networks to meet their worldwide communications needs. As AT&T notes (id. at 12),

> [t]oday, U.S. customers with locations abroad demand global services, with the advantages of one-stop shopping and seamless technical capabilities, ordering procedures and intervals, billing formats, currencies and payments options.

This demand can be expected to continue and to increase. The requirement to provide customers with "seamless" international networks has placed considerable pressure on both U.S. and foreign companies to form global investment and

alliance strategies. New alliances, partnerships and products continue to emerge in the international market to satisfy consumer demand.

As a concomitant of the technical and economic changes described above, the nature of the international regulatory problems facing the Commission in recent years has, not surprisingly, changed as well. The focus of the Commission's traditional regulatory concern in the international area has been the prevention of "whipsawing" of competing U.S. carriers by a foreign monopoly provider. While this problem continues to exist, it is overshadowed by the possibility that a foreign monopoly carrier now may be in a position to provide service originating or terminating in the United States, and then will be able connect such service with service originating and terminating in its home country. In other words, an international provider would be able to control both ends of a "seamless" international network, whereas U.S. competing carriers, unless they were able to obtain similar authority overseas, would not be able to provide the same "seamless" service.

The consequences of such discrimination would seem to be self-evident. U.S. carriers would not be able to compete in the provision of international networks, would be harmed in the provision of international services, and would even be harmed in the provision of U.S. domestic service. Thus, in selecting a carrier to provide service, many U.S. customers have for some time now placed considerable emphasis upon the

ability of a single carrier to meet their international as well as domestic needs. Therefore, U.S. users also would be harmed if they could not select U.S. carriers for seamless worldwide service.

AT&T's proposals to attack the problem of discrimination by foreign monopoly carriers entering the U.S. market are not only logical, but perhaps the only reasonable course that can be followed. First, the Commission needs to enforce anti-discrimination provisions against foreign monopoly providers entering the U.S. market (either directly or through U.S. affiliates) to provide services to and from their home markets. Second, because of the difficulty of enforcing and monitoring the conditions needed to govern even-handed competition, the Commission needs to encourage foreign governments to open up their home markets to U.S. carriers and to provide U.S. carriers with the same opportunities to compete as the U.S. provides for foreign carriers. For the long term (and perhaps even in the short run), only equivalent opportunity in overseas markets can provide any assurance that U.S. carriers will not be disadvantaged.

As AT&T points out, at the present time no foreign government has opened its markets to competition to the same extent as the U.S. (AT&T Petition at 2). Thus far, "foreign governments have not followed" the U.S. lead in promoting competition "and are either moving to open their markets to competition slowly, or not at all" (id.). Even in countries which are at the forefront in liberalizing their telecommunications policy (such as the U.K.), there are, as

yet, no "...developed policies to separate monopoly and competitive service providers, or to require the monopoly provider to make equal access to essential facilities available to potential competitors on terms that would permit the development of effective competition" (id. at 2-3). Moreover, as AT&T also points out, there is no way that the Commission can satisfactorily resolve all the problems that have arisen in the context of case-by-case evaluations in the existing hodgepodge of regulatory applications, Section 214 proceedings, cable landing license requests, and complaints. The problems confronting the Commission basically require overall policy determinations in the resolution of extremely complex and interrelated matters. What is needed is a holistic approach for the Commission to carefully develop such overall policies through a rulemaking. Indeed, it is the power to act through such a rulemaking, and not solely through case-by-case determinations, which is regarded as a fundamental advantage of the administrative process.

Sprint, of course, does not suggest that a rulemaking proceeding would or could supplant the Commission's existing case-by-case review procedures of Section 214 applications and cable landing license requests. Rather, its point is that such case-by-case reviews can be far more meaningful and effective if such reviews can be measured against clearly articulated and uniformly applied standards developed through notice and comment procedures which are open to industry participants and other government agencies.

It is to be expected that the Commission will not in any rulemaking be able to answer all questions that arise. On the other hand, unless the Commission establishes overall policy, the Commission will not be able to answer many of the questions relating to foreign entry which are already pending before it, or which may arise, on a satisfactory basis, or possibly at all.

The need for a rulemaking is also an immediate one. The proposed BT acquisition of 20 percent of MCI for $4.3 billion, and the obvious intent of BT to participate in MCI's future management, in a very real sense has already "placed the wolf at the door." The BT/MCI agreement is not only the most visible manifestation of the problem of entry into the U.S. services market by a foreign monopoly carrier, but a watershed event of enormous policy and practical consequence to the future of U.S. competition.

The Commission cannot realistically establish conditions for entry into the U.S. services market subsequent to, or apart from, a decision as to the correct course of action in response to the approvals sought by BT and MCI. Rather, the necessary policy decisions must be in place before, or at least by the time, the Commission rules on the BT/MCI petition. As Sprint noted in its comments in response to the BT/MCI Joint Petition for Declaratory Ruling[1] the necessary policies must be determined either in a prior rulemaking or in

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[1]Sprint's Comments were filed on September 24, 1993.

the BT/MCI case itself, which, in effect, would then serve the role of a surrogate rulemaking. As Sprint acknowledged in its comments, the issues raised so starkly by BT's entry into the U.S. international market through its $4.3 billion purchase of MCI stock plainly have wider ramifications and may possibly be best considered in a generic rulemaking proceeding to establish rules to apply not only to BT, but to all other foreign carriers seeking to enter the U.S. international market.[2] In either case, the immediate need for a full

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[2]As noted, Sprint is in general agreement with the course proposed by AT&T in its Petition. Specifically, the conditions proposed by AT&T appear generally reasonable, although the Commission, after review of all the comments in a proceeding, may not decide to require strict adherence to all the factors, or may attach different weight to some conditions based upon the facts of each case. One of the conditions proposed by AT&T may prove too difficult to implement. For example, AT&T's proposed Condition 3 (at page 6) specifies that the foreign carrier should agree to reduce accounting rates to the lower of "cost-based levels, as defined by this Commission" or the lowest rate charged to any carrier from another country "except where and to the extent justified by demonstrable differences in cost." This proposed condition, although it certainly seeks a desired result, may prove impossible to determine and the Commission may need to devise other ways to protect against this potential form of discrimination. Such approaches might include establishing ranges or "benchmarks," as previously has been done in the area of international accounting rates.

Similarly, AT&T's proposed "two year window" for compliance with the Commission's equivalency criteria has obvious dangers (as AT&T is aware) and needs to be enforced with certainty. If the Commission decides to allow a two year compliance period, it should require sufficient and reasonable assurances that the subject country actually can achieve market equivalency within a two year period. Any authority should be conditioned to expire by its own terms at the conclusion of the two year authorization so that the Commission can assure that equivalency has been achieved before permitting renewal of the authorization.

investigation in which the Commission can determine policies to govern entry by foreign monopoly carriers into the U.S. service market is all too apparent.

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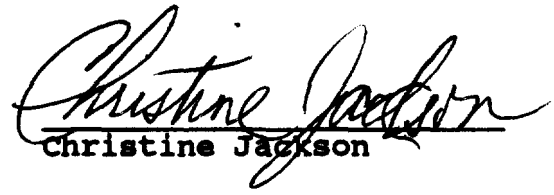
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing COMMENTS of Sprint Communications Company L.P. was sent by United States first-class mail, postage prepaid, on this the 1st day of November, 1993, to the parties on the attached service list:



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